



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AMERICAN FEDERATION OF STATE, COUNTY:
AND MUNICIPAL EMPLOYEES, COUNCIL 93 :

Petitioner :

v. :

TOWN OF LITCHFIELD, NEW HAMPSHIRE :
POLICE DEPARTMENT :

Respondent :

CASE NO. A-0550

DECISION NO. 90-91

APPEARANCES

Representing AFSCME, Council 93:

Harriett Spencer, Staff Representative AFSCME

Representing Town of Litchfield:

Laurence E. Kelly, Esq., Counsel

Also appearing:

Mike Houle, Litchfield Police Dept.

Patrick Singleton, AFSCME

Ralph Boehm, Selectmen

BACKGROUND

On March 30, 1990 AFSCME, Council 93 (AFSCME) filed a petition for certification of a bargaining unit composed of all full-time and part-time employees of the Litchfield Police Department which included the positions of patrolmen, clerk, secretary/dispatcher and detective/sergeant.

The Town of Litchfield (Town) through its Counsel objected to the petition stating that (1) the Chief of Police had been included as the 13th person and as Chief and head of the Department should be excluded as supervisory under 273-A:8 (II). (2) The detective/sergeant and field training officer should also be excluded as supervisory: i.e., the detective/sergeant in charge of the night shift and the field training officer supervising the training. (3) The clerk and secretary/dispatcher acted as alter ego to the chief and the detective/sergeant and privy to management information which could create a conflict of interest. (4) The part-time or special officers were not employed on a regular basis, were appointed on a yearly basis, maintained outside employment and lacked a

community of interest with other police department employees, and (5) with exceptions of the above positions, the petition would not meet the minimum requirement of 10 under the statute.

Hearing in this matter was held in the Board's office in Concord, on June 5, 1990.

AFSCME argued for inclusion of all positions, i.e., Detective/Sergeant, Field Training Officer, Clerk, Secretary/Dispatcher and patrolmen, seven of which were part-time but who work on a regularly scheduled basis.

Special officer Michael Houle testified that the average workweek for the part-time patrolmen was ten (10) hours and in some cases more or less depending on the situation. He offered testimony on their work schedule and stated that they were certified as special by the State of N.H. As training officer, he testified on the training required to be certified which included an extensive 10-week course.

Counsel for the Town argued that the specials were appointed annually and that their continued employment was conditioned on appropriations; that they lacked community of interest and were paid at a different rate of pay.

FINDINGS OF FACT

1. The Chief of Police was expressly "excluded" as supervisory from the petition filed by AFSCME.
2. The Detective/Sergeant and the Field Training Officer do not exercise the degree of supervisory authority involving significant discretion to merit exclusion under 273-A:8,II.
3. Final authority rests with the Chief of Police and the Board of Selectmen.
4. The Clerk and Secretary/Dispatcher are not confidential employees within the meaning of 273-A and would not have a conflict interest with other employees in the proposed unit. The confidential aspect relates to labor relation matters and not management information.
5. The part-time officers are essential and required in order to maintain the efficient operation of the department. They are sworn personnel who must meet state standards and training and are certified sworn officers by the State of N.H.
6. The petition meets the minimum requirement under the statute.

DECISION AND ORDER

The petition for certification of a bargaining unit in the Police Department, Town of Litchfield, is hereby GRANTED.

A unit is hereby created of all full-time and part-time patrolmen, clerk, secretary/dispatcher, Field Training officer and detective/sergeant. Excluded from the unit as supervisory, Police Chief.

An election to be held by PELRB under RSA 273-A and the Board's Rules and Regulations as expeditiously as possible and no later than October 3, 1990. Order of election accompanies decision.

Signed this 13th day of September, 1990.


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Seymour Osman and Richard E. Molan, Esq., present and voting. Also present, Executive Director, Evelyn C. LeBrun.